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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,928	03/11/2004	Kurt Pfitzinger	5031-214	6919
20792	7590	11/14/2005		
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627				
			EXAMINER WILLIAMS, MARK A	
			ART UNIT 3676	PAPER NUMBER

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/798,928

**Applicant(s)**

PFITZINGER ET AL.

**Examiner**

Mark A. Williams

**Art Unit**

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 14-16, 18, 20, 23-25, 27, 28, 30, 33-35, 38-43 and 45 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 13, 17, 19, 21, 22, 26, 29, 31, 32, 36, 37 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because: there is no figure 15, as described in the specifications; there is no figure 3A, as describe in the specifications.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “retaining member” of claim 45 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR

1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because figures 10-14 do not contain reference numerals as described in the specifications. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Information Disclosure Statement***

4. The information disclosure statement filed 11/17/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 45 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a rotary unit having a base plate with slot, a rotary member having a plurality of fingers, and a pawl member, as claimed, it does not reasonably provide enablement for a "retaining member". The

specification (particularly the drawings) does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to understand, make, and/or used the invention commensurate in scope with these claims.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 14, 15, 27, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not understood what is meant by the rotary member being formed of "multiple layers" in the context of the claims.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims <sup>12,</sup>23-25, 27, 28, 30, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Raffelsiefer et al., US Patent 4,298,223. Note the

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embodiment of figures 3-5. A rotary unit for use with a locking system, comprising a base plate 1' having a slot 15'; a rotary member 4' rotatably mounted with the base plate about a first axis of rotation, the rotary member including a plurality of fingers (two surrounding locking pin 10' in figure 1, and two being near elements 19 and 20) extending radially outwardly from a central portion thereof and an engagement portion (near 17') fixed to the central portion; and a pawl member 5' pivotally mounted with the base plate about a second axis of rotation and adapted for coupling with a connecting member, the pawl member including an engagement projection 23' that selectively engages the engagement portion of the rotary member to prevent rotation of the rotary member in a first rotative direction but permit at least a minimum amount of free rotation of the rotary member in a second rotative direction that is opposite the first rotative direction. A biasing member 27 that biases the pawl member to engage the engagement portion of the rotary member. As best understood, the rotary member is formed of multiple layers as claimed. As best understood, the rotary member is also a retaining member.

11. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Garvey et al, US Patent 4,432,575. A locking pin assembly, comprising a mounting



bracket 16 adapted to be mounted on one of the cover or receptacle of a container; a striker plate 22 that is pivotally mounted to the mounting bracket for rotation about an axis of rotation; and a locking pin 28 that is mounted to the striker plate, the locking pin extending generally parallel to the axis of rotation.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-5, 8, 9, 14, 15, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raffelsiefer et al. in view of Katayama, US Patent 3,909,060. Raffelsiefer, as mentioned above, discloses the claimed latch design, including a release member within 8' (as can be seen in figure 3); a connecting member 13' but does not explicitly teach a container design to be used in combination with the latch, as claimed. It is old and well known in the art to use a variety of different type of latch design in a variety of different types of locking application, including various types of containers. Katayama teaches a general hatch back trunk design which meets the claimed limitations-- specifically, a

container has a receptacle region 13 having side walls, a floor, and an open end; a cover 34 pivotally attached to one of the walls of the receptacle, the cover being movable between an open position, in which the open end of the receptacle can be accessed, and a closed position, in which the cover overlies the open end of the receptacle; note that regions of the lateral side walls can be broadly considered wing portions, as claimed. Although the cylindrical bracket 18 of Katayama is not explicitly taught as <sup>being</sup> ~~been~~ a gas cylinder, it is well known in the art to use such gas piston cylinders for the purpose of retarding closing forces due to gravity. It would have been obvious at the time the invention was made for one skilled in the art to have used the device of Raffelsiefer in a container application, such as that taught by Katayama, for the purpose of gaining the benefit of such a latch design in the environment of a container application. To make the cylindrical bracket of Katayama a gas cylinder would have also been considered an obvious modification, as well known in the art, for the purpose of retarding closing forces due to gravity.

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raffelsiefer et al. in view of Katayama in further view of Lee, US Patent 4,826,224. Although a palm button is not explicitly taught, it is very old and well

known the art of latching the device to use a variety of types of button devices to release latch components in this manner. Lee provides such teaching at 17. It would have been obvious to use such a palm button in the design of the combination, for the purpose of providing means to release the latch components in the desired manner.

15. Claims 6, 7, 33-35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raffelsiefer et al. in view of Katayama in further view of Garvey et al., US Patent 4,432,575 and Chabanne et al., US Patent 5,496,080. The combination discloses the claimed invention except for explicit teaching of the striker plate and bracket arrangement. Garvey provides an adjustable striker plate and bracket combination as claimed; such an arrangement allows for proper alignment of the bolt for optimal use. Chabanne provides biasing means of a helical spring, as claimed; such an arrangement provides a means buffering contact and serves as an indicator of latching. It would have been obvious at the time the invention was made to have modified the device of the combination in these ways for the purpose of providing means for improving alignment as well as means for providing a buffering contact and an indicator of latching.

Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raffelsiefer et al. in view of Katayama in further view of Garvey et al., US Patent 4,432,575 and Chabanne et al. Although the particular claimed structure is not explicitly taught, it would have been an obvious matter of design choice to make the different portions of the striker plate of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such a modification is not critical to the design and would have produced no unexpected results.

16. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garvey et al. in view of Chabanne et al., US Patent 5,496,080. Chabanne provides biasing means as claimed. Such biasing means such provides a means buffering contact and serves as an indicator of latching. It would have been obvious to includes such a modification in the design of Garvey for the purpose of buffering contact and providing an indicator of latching.

***Allowable Subject Matter***

17. Claims 10, 11, 13, 17, 19, 21, 22, 26, 29, 31, 32, 36, 37, and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams  
10/30/05



Suzanne Dino Barrett  
Primary Examiner